

SENATE BILL 1366

By Bell

AN ACT to amend Tennessee Code Annotated, Title 36
and Title 37, relative to children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-101, is amended by deleting subdivision (a)(2)(A)(i) and substituting the following:

(i) Except as provided in this subdivision (a)(2)(A), neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody is established, but the court shall have the widest discretion to order a custody arrangement that is in the best interest of the child. It is the public policy of the state to maximize the participation of both parents pursuant to § 36-6-106(a). Unless both parents have agreed to a custody arrangement and parenting plan, orders for custody arrangements must include written findings of fact and conclusions of law to support the basis for the order. Unless the court finds by clear and convincing evidence to the contrary, there is a presumption that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted. The burden of proof necessary to modify an order of joint custody at a subsequent proceeding shall be by a preponderance of the evidence.

SECTION 2. Tennessee Code Annotated, Section 37-2-414, is amended by adding the following as a new subsection:

(d) When a child has been removed from the home of one (1) parent and is in the care, custody, or guardianship of the department, the department shall consider and evaluate the child's other natural or adoptive parent, if available, for placement before considering any other relative pursuant to subsection (b).

SECTION 3. This act takes effect July 1, 2021, the public welfare requiring it.